

COLORADO INDEPENDENT ETHICS COMMISSION

Minutes of the February 2, 2009 Meeting
633 17th Street, Room 2A, 10 a.m.
Denver, Colorado

Present: Commissioners Nancy E. Friedman, chair; Matt Smith, vice chair; Sally H. Hopper (after 12 p.m.); Larry R. Lasha; Roy Wood (after 12 p.m.); Also Present: Jane T. Feldman, Executive Director of the IEC; James Carr of the Colorado Attorney General's Office (after 12 p.m.); Linda Siderius, conflicts counsel (until 12 p.m.)

I. GENERAL BUSINESS

1. The meeting commenced at 10 a.m. It was moved, seconded and passed unanimously to approve the agenda of the open session portion of the February 2, 2009 meeting.
2. It was moved, seconded and passed unanimously to approve the minutes of the open session portion of the January 23, 2009 meeting.

II. EXECUTIVE SESSION BUSINESS

The Commission met in Executive Session from 10:05-12:25 p.m.

III. GENERAL BUSINESS

The Commission returned to Open Session at 12:25 p.m.

1. Complaint 08-01:

- a. In response to Mr. Coffman's motion for determination of evidentiary standard, it was moved and seconded to decide that the IEC will apply a clear and convincing standard in cases where the standard of conduct being complained of is derived from a criminal statute in Title 18. This higher evidentiary standard is appropriate because the standard of conduct derives from a Title 18 criminal statute. Beyond a reasonable doubt evidentiary standard will not be employed because the IEC is not a criminal tribunal. Commissioner Smith moved to amend the motion to use a heightened standard with regard to the third allegation in Complaint 08-01; there was no second, so the motion to amend failed. The original motion then passed unanimously (Commissioners Hopper and Wood recused).
- b. It was moved, seconded and passed unanimously (Commissioners Hopper and Wood recused) to deny Mr. Coffman's motion to dismiss in its entirety.
- c. Formal written orders will be provided to the parties when finalized.

2. Executive Director's Report:

- a. The Executive Director introduced Kyle Hosmer, one of the IEC's interns from the University of Northern Colorado. Mr. Hosmer told the Commission about his background.
- b. Ms. Feldman informed the Commission that the request for an exemption from the hiring freeze had been filed with the Governor's Office for both positions. Ms. Feldman will find out when the Commission's budget hearing is scheduled before the JBC and inform the Commission so that Commissioners may attend.
- c. Ms. Feldman reported that she is working with the Human Resources Division of DPA to finalize the PDQs for both of the IEC's positions so that the hiring process can proceed quickly if the exemption is granted.
- d. Ms. Feldman reported that she had attended a training session with the Denver Ethics Board last week. Part of the training consisted of an audio training run by ICMA, a governmental ethics organization which presented fact patterns; Michael Henry of the Denver Ethics Board then discussed the fact patterns in the context of the Denver Ethics Code. Commissioner Wood agreed to help Ms. Feldman put together a training program for the Commission.
- e. Ms. Feldman reported that she had been asked to serve on the COGEL membership recruitment committee for 2009.

3. Letter Ruling 09-01:

It was moved, seconded and passed unanimously to approve Letter Ruling 09-01 concerning whether a professional lobbyist may have lunch with a public official or public employee at a venue where the public official or employee is not allowed to pay for his or her own meal. It will be released to the public following a review for typographical and scrivener errors.

4. Letter Ruling 09-02:

It was moved, seconded and passed unanimously to approve Letter Ruling 09-02 concerning whether a not-for-profit, non-lobbyist entity may host public officials and employees at an annual luncheon. It will be released to the public following a review for typographical and scrivener errors.

5. Additional meetings were scheduled for the following dates: March 18 (executive session, only), March 19, April 7, and April 21. All meetings will begin at 10 a.m. Locations to be determined.

6. No Other Business was raised.

III. EXECUTIVE SESSION BUSINESS

The Commission was in Executive Session from 1:10 p.m.-3:58 p.m.

IV. GENERAL BUSINESS

1. It was moved, seconded and passed unanimously to dismiss Complaint 09-02 pursuant to IEC Procedural Rule 7.E.3, because the allegations in the complaint, if true, do not constitute a violation of Article XXIX of the Colorado Constitution or any other standard of conduct or reporting requirements under the jurisdiction of the IEC. (Commissioner Wood excused).

The Commission adjourned at 4 p.m.

Next meeting: February 20, 2009 at 10 a.m. at 633 17th Street, 14th floor, Courtroom 6.

Respectfully submitted,

Jane T. Feldman
Executive Director